SUPREME COURT, U. S.

JOHN T. [illegible], Clerk

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1958

No. 164

HENRI SADACCA,
Petitioner,

vs.

NYLONET CORPORATION,
Respondent.

RESPONDENT'S BRIEF IN OPPOSITION TO WRIT OF CERTIORARI

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The Respondent respectfully submits that the petition for Writ of Certiorari to the United States Court of Appeals for the 5th Circuit in the above case should be denied for the following reasons:

1. The case involved is one for breach of contract. At the conclusion of the evidence in the District Court, the Judge held a charge conference at which time instructions to be given by the Court to the jury were gone over and no

objection was raised by the counsel for the petitioner, either to the giving of any charge or the failure to give any charge. FRCP 51 clearly makes it the obligation of a party to object to a charge if he expects to rely upon the giving of such charge upon the appeal.

2. The charge, which it is now claimed constituted "clear error", was the giving of a standard instruction with respect to the well settled principle of law that a contract is to be construed most strongly against the party drawing it. A reading of this charge together with the applicable evidence in the record clearly demonstrates that the charge not only fails to contain any "plain error" but, on the other hand, was most appropriate.

3. The Court of Appeals has affirmatively found by unanimous opinion that no "plain error" has been demonstrated in this record.

4. The petitioner has failed to present any grounds in his petition which would bring this case within the principles governing the granting of a Petition for Writ of Certiorari as set forth in Rule 19 of this Court.

5. Judgment of the Trial Court, as affirmed by the Court of Appeals, has been satisfied by the petitioner.

For the above and foregoing reasons, it is respectfully submitted that the Writ of Certiorari should be denied.

DOUGLAS D. BATCHELOR
DAVID W. DYER

By _____

Attorneys for Respondent.

ACKNOWLEDGMENT OF SERVICE

Receipt is acknowledged of three copies of Respondent's brief this_____day of_____, 1958.

_____

Attorney for Petitioner